#### UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION	) ) MDL No. 1456 ) CIVIL ACTION: 01-CV-12257-PBS
THIS DOCUMENT RELATES TO:	) Judge Patti B. Saris
ALL ACTIONS	) )

# PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL

Plaintiffs, by their attorneys, respectfully move this Court for leave to file under seal the following pleadings and other materials: (1) Declaration of Donald E. Haviland, Jr., Esquire in Support of Plaintiffs' Motion to Certify Claims With Respect to Track 2 Defendants; and (2) Affidavit of Glenn Randle.

The foregoing items include or reference copies of documents and/or excerpts from documents that certain defendants have identified as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" pursuant to the terms of the December 13, 2004 Protective Order. Also, the foregoing items reference information contained in documents designated by certain defendants as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL." In addition, the foregoing items not only quote extensively from and/or attach documents that certain defendants have designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL," but also they include references to pricing data that defendants likely believe to be highly proprietary in nature.

Paragraph 15 of the Protective Order mandates that any document or pleading containing material such as that referenced above be filed under seal. Plaintiffs hereby seek to comply with the terms of the Protective Order.

While plaintiffs seek to file the above-listed items under seal in order to comply with the Protective Order, plaintiffs believe that much if not all of the material that defendants have designated or likely deem to be "CONFIDENTIAL" or HIGHLY CONFIDENTIAL is not truly confidential or highly confidential. Accordingly, plaintiffs plan to move for an order unsealing the summary judgment (and other) materials recently filed by defendants under seal, in addition to the materials that plaintiffs themselves hereby seek to file under seal.

WHEREFORE, Plaintiffs respectfully request that this Court grant them leave to file the foregoing listed materials under seal.

DATED: May 8, 2006

## By /s/ Steve W. Berman

Thomas M. Sobol (BBO#471770) Edward Notargiacomo (BBO#567636) Hagens Berman Sobol Shapiro LLP One Main Street, 4th Floor Cambridge, MA 02142 Telephone: (617) 482-3700 Facsimile: (617) 482-3003

## LIAISON COUNSEL

Steve W. Berman Sean R. Matt Hagens Berman Sobol Shapiro LLP 1301 Fifth Avenue, Suite 2900 Seattle, WA 98101

Telephone: (206) 623-7292 Facsimile: (206) 623-0594 Elizabeth Fegan Hagens Berman Sobol Shapiro LLP 60 W. Randolph Street, Suite 200 Chicago, IL 60601 Telephone: (312) 762-9235

Facsimile: (312) 762-9286

Eugene A. Spector Jeffrey Kodroff Spector, Roseman & Kodroff, P.C. 1818 Market Street, Suite 2500 Philadelphia, PA 19103 Telephone: (215) 496-0300 Facsimile: (215) 496-6611

Kenneth A. Wexler
Jennifer Fountain Connolly
The Wexler Firm LLP
One North LaSalle Street, Suite 2000
Chicago, IL 60602
Telephone: (312) 346-2222
Facsimile: (312) 346-0022

Marc H. Edelson Allan Hoffman Edelson & Associates LLC 45 West Court Street Doylestown, PA 18901 Telephone: (215) 230-8043 Facsimile: (215) 230-8735

Shanin Specter
Donald E. Haviland, Jr.
Kline & Specter, P.C.
1525 Locust Street, 19th Floor
Philadelphia, PA 19102
Facsimile: (215) 772-1359
Telephone: (215) 772-1000

CO-LEAD COUNSEL FOR PLAINTIFFS

#### **CERTIFICATE OF SERVICE**

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing **PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL** be delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on May 8, 2006, a copy to LexisNexis File and Serve for Posting and notification to all parties

By /s/ Steve W. Berman
Steve W. Berman
HAGENS BERMAN SOBOL SHAPIRO LLP
1301 Fifth Avenue, Suite 2900
Seattle, WA 98101
(206) 623-7292